



Advisory Opinion 09-006

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2008.) It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On February 13, 2009, the Information Policy Analysis Division (IPAD) received an email, dated February 12, 2009, from Evan Siljander. In his email, Mr. Siljander asked the Commissioner to issue an advisory opinion regarding his right to have access to certain data the City of Montrose maintains.

IPAD, on behalf of the Commissioner, wrote to Barbara Swanson, City Administrator, Clerk, Treasurer, in response to Mr. Siljander's request. The purposes of this letter, dated February 19, 2009, were to inform her of Mr. Siljander's request and to ask her to provide information or support for the City's position. Ms. Swanson responded, in an email dated March 4, 2009. She included a copy of a January 5, 2009, email intended for IPAD, that, unfortunately, she addressed to an invalid email address. (ipad@state.mn.us rather than info.ipad@state.mn.us.)

A summary of the facts follows. In an email dated January 10, 2009 (a Saturday), Mr. Siljander asked to review the "January 12 2009 Council Agenda Digital Word Document." In an email dated February 24, 2009 (a Saturday), Mr. Siljander wrote to Ms. Swanson, asking for an update on his request. In his opinion request, Mr. Siljander stated that he had not received a response. He asked the Commissioner to address his right to get access to the agenda in Microsoft Word format.

In her comments to the Commissioner, Ms. Swanson wrote:

On January 5, 2009, I submitted a request to IPAD for clarification related to emailing documents in the Microsoft program WORD [attached]. On January 8, 2009 I responded to Mr. Siljander's request for WORD documents with an explanation that I was waiting for a reply from IPAD of which [sic] I provided a copy of the request to Mr. Siljander. On January 12th I responded to Mr. Siljander twice that I was waiting for a reply from IPAD.

....

I would like to add that Mr. Siljander had received all of the information he requested as WORD documents in a PDF format. Mr. Siljander was never without the data he was requesting; the issue was a different format.

Ms. Swanson wrote that the City, after consultation with IPAD staff, had provided Mr. Siljander with access to the agenda in Word format.

Issue:

Based on Mr. Siljander's request, the Commissioner will address the following issue:

Did the City of Montrose comply with Minnesota Statutes, Chapter 13, in response to a request, dated January 10, 2009, for access to certain data?

Discussion:

Pursuant to Minnesota Statutes, section 13.03, government data are public unless otherwise classified.

There is no question that the City Council agenda is public. The issue is whether the City was obliged to provide Mr. Siljander with the data he requested in the format he requested. The Commissioner has opined previously that Chapter 13 does not require government entities to create data or provide data in a format other than that which the entity maintains. (See, for example, Advisory Opinion 01-012.)

According to Ms. Swanson, the City "typically converts Word documents to PDF so they cannot be altered." The City also maintains the data in Word format. As noted above, government entities are not obliged to convert data to a particular format in response to a data request. However, they are obligated, upon request, to provide access to data in whatever format they do maintain them. (Minnesota Statutes, section 13.03, subdivision 3(e).) Accordingly, in response to Mr. Siljander's request, the City should have provided him access to the data in Word format. According to Ms. Swanson, the City has now done so.

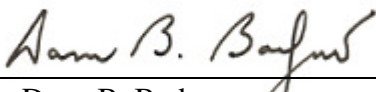
The City's response here was complicated by its unsuccessful attempt to contact IPAD for assistance. Mr. Siljander stated that the City did not respond at all to his January 10 request. However, Ms. Swanson emailed Mr. Siljander twice on Monday January 12, (i.e., the day the City received his request) and informed him that she was waiting for an answer from IPAD before responding to his request.

The Commissioner also notes that she is aware that the City and Mr. Siljander have numerous, on-going data practices issues. She encourages both parties to make attempts to resolve those disputes, perhaps by seeking assistance from a community mediation center.

Opinion:

Based on the facts and information provided, my opinion on the issue that Mr. Siljander raised is as follows:

The City of Montrose did not comply with Minnesota Statutes, Chapter 13, in response to a request, dated January 10, 2009, for access to certain data. It has now done so.

Signed: 
Dana B. Badgerow
Commissioner

Dated: March 19, 2009